ST

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,476	08/04/2003	Oscar Pupo	23054	5160

7590 08/23/2004

Sanchelima and Associates, P. A.
Jesus Sanchelima, Esq.
235 S.W. Le Jeune Rd.
Miami, FL 33134

EXAMINER	
GUTMAN, HILARY L	

ART UNIT	PAPER NUMBER
3612	

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/633,476	PUPO, OSCAR
	Examiner	Art Unit
	Hilary Gutman	3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-6 and 10-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-6 and 10-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 June 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10 and 12, line 4, recites trademarks used in such a way as to identify or describe a particular material or product. Therefore, the claim does not comply with the requirements of the 35 U.S.C. 112 (See MPEP 2173.05(u)--Trademarks or Trade Names in a Claim).

Claim 11 recites the limitation "its factory" in lines 30-31. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Saunders.

Saunders (4,805,956) discloses a rooftop used in combination with a jeep-type vehicle, comprising: a substantially rectangular top wall 14 having first, second, third, and fourth ends, the first and second ends parallel and equally spaced apart from each other by the third and

fourth ends (Figure 1), the first end removably secured to a windshield frame of a jeep-type vehicle, the substantially rectangular top wall also having first and second elongated wedges 30; and first and second side walls 16 extending substantially perpendicularly from the third and fourth ends to form the rooftop for the jeep-type vehicle, the first and second side walls terminating at first and second bases, integral therewith, respectfully and mount upon the jeep-type vehicle, the rooftop only covering a driver and front passenger cabin of the jeep-type vehicle. The first and second elongated wedges 30 extend from the first end to the first and second bases and cooperate to receive door window frames (not shown) of the vehicle when the door window frames are in a closed position. The rooftop is made of a hard, lightweight, weatherproof plastic material.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe et al. in view of Saunders.

Monroe et al. (4,238,876) teach a rooftop used in combination with a jeep-type vehicle, comprising: a substantially rectangular top wall 20 having first, second, third, and fourth ends, the first and second ends parallel and equally spaced apart from each other by the third and fourth ends, the first end removably secured to a windshield frame of the jeep-type vehicle, and first and second side walls (Figure 1) extending substantially perpendicularly from the third and

fourth ends to form the rooftop for the jeep-type vehicle, the first and second side walls terminating at first and second bases at the lower ends of the side walls respectfully and mount upon the jeep-type vehicle, the rooftop only covering a driver and front passenger cabin of the jeep-type vehicle. The substantially rectangular top wall (Figure 11) is a double-walled structure with a cavity. The top wall has an upper wall and a lower wall. The lower wall can be considered a support wall to define a reinforced area of the top wall for structural integrity. The rooftop is filled with a filler material 80 (Figure 11). The filler material is made of foam and is capable of reducing ultra violet radiation and exterior noise within the driver and front passenger cabin of the vehicle.

Monroe et al. lack the substantially rectangular top wall also having first and second elongated wedges and further lack the first and second elongated wedges extending from the first end to the first and second bases and cooperating to receive door window frames of the vehicle when the door window frames are in a closed position.

Saunders (4,805,956) teaches a rooftop used in combination with a jeep-type vehicle, comprising: a substantially rectangular top wall 14 having first, second, third, and fourth ends, the first and second ends parallel and equally spaced apart from each other by the third and fourth ends (Figure 1), the first end removably secured to a windshield frame of a jeep-type vehicle, the substantially rectangular top wall also having first and second elongated wedges 30; and first and second side walls 16 extending substantially perpendicularly from the third and fourth ends to form the rooftop for the jeep-type vehicle, the first and second side walls terminating at first and second bases, integral therewith, respectfully and mount upon the jeep-type vehicle, the rooftop only covering a driver and front passenger cabin of the jeep-type

vehicle. Additionally, the first and second elongated wedges 30 extend from the first end to the first and second bases and cooperate to receive door window frames (not shown) of the vehicle when the door window frames are in a closed position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided first and second elongated wedges of the type taught by Saunders upon the top wall of Monroe et al. in order to allow the top wall to be closely engaged to the window door frames of the vehicle when closed to create a tighter fit (for sealing purposes) and enhance the aesthetics or looks of the vehicle.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe et al., as modified, and applied to claim 3 above and further in view of Litwicki.

Monroe et al., as modified, lack the top wall having a sunroof assembly built within the support wall, wherein the sunroof assembly, at a first predetermined distance from the first end, extending towards the second end without reaching the second end.

Litwicki teaches a plastic double-walled rooftop for a vehicle having a top wall with first, second, third, and fourth ends; the first and second ends parallel and equally spaced apart from each other by the third and fourth ends; the first end removably secured to a windshield frame 44 of the vehicle. The top wall has an upper part and a lower part acting as a support wall (best seen in cross section in Figure 8). The top wall has a sunroof assembly 36 (Figures 7-8) built within the support wall, generally in the center thereof; the sunroof assembly, at a first predetermined distance from the first end, extending towards the second end without reaching the second end (Figure 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a sunroof assembly as taught by Litwicki, within the support wall of Monroe et al., as modified, in order to expose the area above the cabin.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe et al., as twice modified, and applied to claim 5 above and further in view of Saunders.

Monroe et al., as twice modified, lack the material of the rooftop.

Saunders teaches a rooftop made of a hard, lightweight, weatherproof plastic material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the rooftop of Monroe et al., as twice modified, to be hard, lightweight, plastic as taught by Saunders in order to provide a rooftop that is hard and lightweight since these features are desirable for vehicle body components and panels.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe et al. in view of Saudners and Litwicki.

Monroe et al. (4,238,876) teach a detachable rooftop used in combination with a jeep-type vehicle, comprising: a substantially rectangular top wall 20 having first, second, third, and fourth ends, the first and second ends parallel and equally spaced apart from each other by the third and fourth ends, the first end removably secured to a windshield frame of the jeep-type vehicle, and first and second side walls (Figure 1) extending substantially perpendicularly from the third and fourth ends to form the rooftop for the jeep-type vehicle, the first and second side walls terminating at first and second bases at the lower ends of the side walls respectfully and

mount upon the jeep-type vehicle, the rooftop only covering a driver and front passenger cabin of the jeep-type vehicle. The substantially rectangular top wall (Figure 11) is a double-walled structure with a cavity. The top wall has an upper wall and a lower wall. The lower wall can be considered a support wall to define a reinforced area of the top wall for structural integrity. The rooftop is filled with a filler material 80 (Figure 11). The filler material is made of foam and is capable of reducing ultra violet radiation and exterior noise within the driver and front passenger cabin of the vehicle.

Monroe et al. lack the substantially rectangular top wall also having first and second elongated wedges and further lack the first and second elongated wedges extending from the first end to the first and second bases and cooperating to receive door window frames of the vehicle when the door window frames are in a closed position.

Saunders (4,805,956) teaches a rooftop used in combination with a jeep-type vehicle, comprising: a substantially rectangular top wall 14 having first, second, third, and fourth ends, the first and second ends parallel and equally spaced apart from each other by the third and fourth ends (Figure 1), the first end removably secured to a windshield frame of a jeep-type vehicle, the substantially rectangular top wall also having first and second elongated wedges 30; and first and second side walls 16 extending substantially perpendicularly from the third and fourth ends to form the rooftop for the jeep-type vehicle, the first and second side walls terminating at first and second bases, integral therewith, respectfully and mount upon the jeep-type vehicle, the rooftop only covering a driver and front passenger cabin of the jeep-type vehicle. Additionally, the first and second elongated wedges 30 extend from the first end to the

first and second bases and cooperate to receive door window frames (not shown) of the vehicle when the door window frames are in a closed position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided first and second elongated wedges of the type taught by Saunders upon the top wall of Monroe et al. in order to allow the top wall to be closely engaged to the window door frames of the vehicle when closed to create a tighter fit (for sealing purposes) and enhance the aesthetics or looks of the vehicle.

Monroe et al., as modified, lack the top wall having a sunroof assembly built within the support wall, wherein the sunroof assembly, at a first predetermined distance from the first end, extending towards the second end without reaching the second end.

Litwicki teaches a plastic double-walled rooftop for a vehicle having a top wall with first, second, third, and fourth ends; the first and second ends parallel and equally spaced apart from each other by the third and fourth ends; the first end removably secured to a windshield frame 44 of the vehicle. The top wall has an upper part and a lower part acting as a support wall (best seen in cross section in Figure 8). The top wall has a sunroof assembly 36 (Figures 7-8) built within the support wall, generally in the center thereof; the sunroof assembly, at a first predetermined distance from the first end, extending towards the second end without reaching the second end (Figure 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a sunroof assembly as taught by Litwicki, within the support wall of Monroe et al., as modified, in order to expose the area above the cabin.

Monroe et al., as twice modified, lack the material of the rooftop.

Saunders teaches a rooftop made of a hard, lightweight, weatherproof plastic material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the rooftop of Monroe et al., as twice modified, to be hard, lightweight, plastic as taught by Saunders in order to provide a rooftop that is hard and lightweight since these features are desirable for vehicle body components and panels.

10. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe et al., as twice modified, and as applied to claims 6 and 11 above.

Monroe et al., as twice modified lacks the vehicle being a CJ-7 or WRANGLER.

The examiner takes official notice that the types of vehicles recited (CJ-7 and WRANGLER) are well known in the prior art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the detachable rooftop of Monroe, et al., as twice modified, upon a CJ-7 or WRANGLER in order to provide these vehicles with a detachable rooftop.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

14. **Any response to this final action should be mailed to:**
Box AF
Assistant Commissioner for Patents
Washington, D.C. 20231
or faxed to:
(703) 872-9327, (for formal communications; please mark "EXPEDITED PROCEDURE")
or:
(703) 746-3515, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").

D. GLENN DAYOAN 5/10/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600